

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
September 17, 2008
1:30 p.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, June 19, 2008 in Nashville, Tennessee at 1:30 p.m. Chairman John Jones, Commissioner Cynthia Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens and SA Amy Farmer were present.

1. The Minutes for August 14, 2008 Commission Meeting were approved.

2. RETAIL

**A. STATELINE LIQUORS
MEMPHIS, TENNESSEE (SHELBYCOUNTY)**

Applicant: William Reddick

Before the Commission is a request for a new retail store to be located at 5308 Highway 61 South, in Memphis, Tennessee. Mr. William Reddick intends to initially invest up to \$10,000 to operate the business and if approved, operate the business as a sole proprietorship. Financing is based upon a home equity line of credit. Mr. Reddick is leasing the property from Robert Bailey for a period of five years, and monthly rent is \$1000/month. All documentation has been submitted, with the exception of the following:

a. Home equity line of credit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the home equity line of credit. Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**B. ONE LAST CAST WINE AND SPIRITS
ASHLAND CITY, TENNESSEE (CHEATHAM COUNTY)**

Applicant: Stephen Cochran

Before the Commission is a request for new retail store to be located at 1004 Lannom Drive, in Ashland City, Tennessee. Stephen Cochran wishes to initially invest \$60,000 to operate the business. If approved, the business will be operated as a sole proprietorship. Financing for the business is based upon a loan from Leslie Finlay. Mr. Cochran is renting the property from the Bromont Group for a period of five years, with monthly rent at \$1666.67. **Issue:** TABC Rule 0100-3-.09(3)(b) provides that “The Commission may refuse to grant a retail liquor license to any applicant who fails to demonstrate by a preponderance of the evidence the financial ability and responsibility to reasonably conduct business.” It should be noted that Mr. Cochran filed for Chapter 13 bankruptcy in 2007. All documentation has been submitted with the exception of the following:

- a. Completed bank credit check;
- b. Loan agreement with Leslie Finlay;
- c. Financial and bank check on Leslie Finlay;
- d. Income tax returns for 2006-2007;
- e. TABC Inspection;
- f. Acknowledgement of the rules/regulations.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that Mr. Steve Cochran requested that this matter be continued to the October meeting. Director Elks stated that the staff has some questions regarding the store and the source of the financing. Director Elks stated that Mr. Cochran has not been able to furnish the documents for the financing at this time. Mr. Cochran believes that it will be at least a month before he can submit the documentation. Commissioner Mathews made a motion to defer the matter to the October meeting. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**C. SKYVIEW LIQUORS, LLC
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Skyview Liquors, LLC
Members: Dedric Robinson and Carlton Orange

Before the Commission is a request for new retail store to be located at 2600 James Road in Memphis, Tennessee. Dedric Robinson and Carlton Orange wish to initially invest \$40,000 to operate the business. If approved, the business will be operated as a LLC. Financing for the business is based upon existing personal funds. Skyview Liquors, LLC is leasing the property from River City Co., Inc. for a period of three years for not more than \$1600/month. All documentation has been submitted with the exception of the following:

- a. Sales tax number;
- b. Written permission of landlord to sublease to LLC; and
- c. Source of deposit in applicant's account.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**D. RAY'S LIQUOR STORE
NEWBERN, TENNESSEE (DYER COUNTY)**

Applicant: Terry Arnold

Before the Commission is a request for a new retail store to be located at 112 East Main Street in Newbern, Tennessee. (Mr. Arnold is purchasing the assets of the business formerly operating as Ray's Liquor Store from the estate of Shirley N. Rice. The license was closed on December, 2007.) Mr. Arnold wishes to initially invest \$6,000 to operate the business. Financing is based upon personal funds. If approved, the business will be operated as a sole proprietorship. Mr. Arnold is leasing the property from Earl Urtendaal for a period of two years: monthly rent begins at \$275/month and increases to \$285/month over the term of the lease. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**E. DISCOUNT LIQUOR
COVINGTON, TENNESSEE (TIPTON COUNTY)**

Licensee/Seller: Dolph Butler
Applicant/Buyer: Patricia Butler

Before the Commission is a request for a transfer of ownership of the store located at 309 Highway 51, North, in Covington, Tennessee. Patricia Butler intends to purchase the business for \$10. If approved, she will operate the business as a sole proprietorship. Ms. Butler will be leasing the property from James Johnson \$1375/month. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**F. COUNTY LINE LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller:	County Line Liquors, Inc.
Stockholder:	Lawrence Rathheim, Jr.
Applicant/Buyer:	County Line Liquors, LLC
Member:	Michael Doyle

Before the Commission is a request for a transfer of ownership of the retail store located at 3740 Arnold Road in Memphis, Tennessee. Mr. Doyle intends to purchase the business for \$150,000 in the business, and if approved, operate the business as a LLC. Financing in the amount of \$350,000 is based upon a loan with Paragon National Bank. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations;
- c. Exhibit A to Bill of Sale;
- d. Certificate of Compliance;
- e. Updated U & O;
- f. Completed documents—application, questionnaire, and list of members;
- g. Sales tax number;
- h. Lease/Deed.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the pending documentation:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations;
- c. Exhibit A to Bill of Sale;
- d. Certificate of Compliance;
- e. Updated U & O;
- f. Completed documents—application, questionnaire, and list of members;
- i. Sales tax number;
- j. Lease/Deed.

Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes. Chairman Jones stated that he was uncomfortable by not having the Certificate of Compliance, particularly because the City of Memphis is issuing the Certificate. Chairman Jones indicated that it appeared that the majority of issues related to Certificate of Compliances, arise from the City of Memphis.

**G. GOO'S LIQUOR STORE
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: Robert Powell
Applicant/Buyer: JJ's Liquor, LLC
Members: Vincent Campbell and Jeannine Campbell

Before the Commission is a request for a transfer of ownership of the retail store located at 4204 Rossville Boulevard, in Chattanooga, Tennessee. Vincent and Jeannine Campbell wish to purchase the business and property for \$445,000, of which \$40,000 is inventory. Financing is based upon existing personal funds (\$15,000); \$25,000 real estate commission for sale of business; \$40,000 home equity loan; and two loans totaling \$378,000 from Southeast Bank **Name change: If approved, the retail would like to do business as JJ's Liquors.** All documentation has been submitted with the exception of the following:

Deed to property when obtained.

Discussion/Action Taken:

Jeannine Campbell was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the Deed to the property. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

Chairman Jones made a motion to change the name to JJ's Liquors. Commissioner Bond seconded the motion and it passed with 3 ayes.

**H. WEST END LIQUORS
DICKSON, TENNESSEE (DICKSON COUNTY)**

Licensee/Seller: Kelly Cannon
Applicant/Buyer: Mahendra Patel

Before the Commission is a request for a transfer of ownership of the retail store located at 2025 Highway 70 West in Dickson, Tennessee. Mr. Patel wishes to purchase the business for \$30,000. Financing is based upon existing personal funds and partly seller financing. Mr. Patel is leasing the property from Dale Murphy for a period of four years at \$700/month. All documentation has been submitted with the exception of the following:

- a. Lease from Kenneth Harmon to Dale Murphy;
- b. TABC Inspection and report;
- c. Acknowledgement of the rules and regulations;
- d. Outstanding citation paid.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon payment of the outstanding citation and the lease from Kenneth Harmon to Dale Murphy. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**I. BUBBA’S WINE AND LIQUORS
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Licensee: Curtis Hutson, Sr.

Applicant: Curtis Hutson, Jr. and Barbara Hutson Fry

Before the Commission is a request to transfer ownership of the retail store located at 2510 Church Street in Murfreesboro, Tennessee. In October, 2007, Mr. Hutson, Sr. passed away. Mrs. Hutson was previously deceased, and the children, Curtis Hutson, Jr. and Barbara Hutson Fry have inherited the business. Mr. Hutson, Sr. also owned the property, and is part of the inheritance. All documentation has been submitted with the exception of the following:

- a. Updated Use and Occupancy;
- b. Newspaper affidavit;
- c. Copy of will;
- d. TABC Inspection;
- e. Acknowledgement of the rules/regulations;
- f. New deed.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the following documentation:

- a. Updated Use and Occupancy;
- b. Newspaper affidavit;
- c. Copy of will;
- d. TABC Inspection;
- e. Acknowledgement of the rules/regulations;
- f. New deed.

Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**J. SPEAK'S PACKAGE STORE
MORRISTOWN, TENNESSEE (HAMBLEM COUNTY)**

Licensee/Seller: Larry Marshall, Inc.
Stockholders: Larry and Susan Marshall
Applicant/Buyer: The Liquor Store, Inc.
Stockholders: Connie Helems Sheperd

Before the Commission is a request to transfer ownership of the retail store located at 1506 S. Cumberland in Morristown, Tennessee. Ms. Sheperd wishes to purchase the business and the property for \$530,000. Financing is based upon a loan with Community National Bank. The property has been purchased by Rex and Connie Sheperd and will lease to the applicant corporation for a period of three years at \$3000/month. All documentation has been submitted with the exception of the following:

- a. Actual loan agreements;
- b. Written Acknowledgment from Rex and Connie Shepherd that Rex Sheherd has an indirect interest in the business.
- c. Federal tax stamp in corporation's name;
- d. Deed to Sheperds.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the pending documentation:

- a. Actual loan agreements;
- b. Written Acknowledgment from Rex and Connie Shepherd that Rex Sheherd has an indirect interest in the business.
- c. Federal tax stamp in corporation's name;
- d. Deed to Sheperds.

Chairman Jones made a motion to approve. Commissioner Matthews seconded the motion and it was approved with 3 ayes.

**K. MURPHY’S PACKAGE STORE, LLC
KNOXVILLE, TENNESSEE (KNOXCOUNTY)**

Applicant: Murphy’s Package Store, LLC
Stockholder: Victor Jernigan

Before the Commission is a request for a new package store to be located at 5914 Washington Pike in Knoxville, Tennessee. Mr. Jernigan wishes to initially invest \$1,250,000 in the business, and if approved, will operate the business as a LLC. Financing is based upon a loan from First National Bank. The applicant is leasing the property from Murphy Road Partnership, LLC for a period of ten years at \$12,000/month. **Issue:** On December 11, 2007, a retail license was issued to Vic’s Package Store, LLC, sole member, Garrett Jernigan. Garrett Jernigan indicated that he was initially investing \$50,000 to operate the business—all of which was financed by a gift from his father, Victor Jernigan. Does this gift constitute at least an indirect interest in another retail store?

All documentation to be submitted with the exception of the following:

- a. Relationship between Murphy Road Partnership and the applicant;
- b. List of members of Murphy Road Partnership;
- c. TABC Inspection;
- d. Acknowledgement of the rules/regulations;
- e. Loan to Murphy’s Package Store, LLC for \$1.25 million;
- f. Affidavits from both Victor and Garrett Jernigan acknowledging the prohibited activities and interests associated with family owned stores.
- g. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners. Director Elks raised the question of whether the father has an indirect interest in Vic’s Package Store because he provided the sole financing to his son to open the business by way of a gift. After discussion on the issue, the Commission members stated that because the father is not receiving any process from the operation of Victor’s, the gift of \$50,000 did not constitute an indirect interest in the retail business.

Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it was approved with 3 ayes.

3. WINERIES

**A. CROWN WINERY
HUMBOLDT, TENNESSEE (GIBSON COUNTY)**

Applicant: Crown Winery, LLC
Members: Rita and Charles Howard, Jack Hamilton

Before the Commission is a request for a new winery to be located at 3638 East Mitchell Street, in Humboldt, Tennessee. Rita and Charles Howard wish to initially invest \$160,000 to operate the winery. If approved, they would operate the winery as a LLC. Each would own 47.5% of the winery, and Mr. Hamilton would have 5% of the winery as the vineyard manager. Financing is based upon \$240,000 line of credit with Regions Bank, and the balance from existing personal funds. The applicant is leasing the property from HRH Vineyards for a period of 5 years, paying \$4166.66/month. All documentation has been submitted with the exception of the following:

- a. Acknowledgement of the rules/regulations,
- B. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the Acknowledgement of the rules/regulations and the Use and Occupancy permit. Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**B. BLUE SLIP WINERY
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Blue Slip Winery, LLC
Members: B. Linn Slocum

Before the Commission is a request for a new winery to be located at 105B West Jackson Avenue, in Knoxville, Tennessee. B. Linn Slocum wishes to initially invest \$5,000 to operate the winery. If approved, she would operate the winery as a LLC. Financing is based upon existing personal funds, as well as a loan from Paxton Gaylon of up to \$600/month for operating capital. The applicant is leasing the property from Downtown Development, LLC for a period of 2 years, 2 months, with the monthly rent beginning at \$300/month and increasing to \$400/month over the term of the lease. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the TABC Inspection and the Acknowledgement of the rules/regulations. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**C. ARRINGTON VINEYARDS
ARRINGTON, TENNESSEE (WILLIAMSON COUNTY)**

Licensee: Arrington Vineyards, LLC
Members: Leon Eric Brooks, III, Kip Summers,
Frederick Mindermann
New Member: John Charles Russell

Before the Commission is a request to transfer percentage ownership from the existing stockholders to John Charles Russell. Currently, Leon Brooks, III owns 50% of the membership rights, with Kip Summers and Frederick Mindermann each owning 25%. Under the proposal, Leon Brooks, III would continue to own 50% of the common percentage interest in the LLC, with John Russell owning 35%, and Kip Summers and Frederick Mindermann each owning 7.5%. Leon Brooks and John Russell would each own 50% of the Preferred stock. Mr. Russell is purchasing his interest for \$446,155. All documentation has been submitted with the exception of the following:

- a. Bill of sale.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it was approved with 3 ayes.

4. SERVER/EMPLOYEE PERMITS

A. JOE BLANKINSHIP—Continued from July 19, 2008 and August 14, 2008 Commission Meeting

In May, 2008, TABC staff denied Mr. Blankenship's application for an employee permit based upon a 2006 conviction for the sale of alcoholic beverages

to a minor. T.C.A. §57-3-703 prohibits the issuance of an employee permit if the applicant has been convicted of any crime involving the sale or distribution of alcohol during the eight years prior to the date of the application. The applicant has appealed the denial of his application.

Discussion/Action Taken:

Director Elks stated that this matter was continued from the July and August 2008 Commission meetings. Mr. Blankinship's attorney had previously requested that at the September Commission had requested a telephone conference call with the Commission so they would not have to appear at the meeting. Prior to the meeting taking place, the attorney called again and advised that he wished to have the matter continued to the October Commission meeting. Director Elks stated that she has not heard from the attorney and does not know why they are not present. She stated Mr. Blankinship's attorney was aware that the meeting was being held today, and it was her understanding that he was going to be present at the meeting. Director Elks requested a motion that a default judgment be entered. Commissioner Mathews made a motion to uphold the default judgment. Commissioner Bond seconded the motion and it was approved with 3 ayes.

Commissioner Mathews made a motion to uphold staff's decision for denial of his application. Commissioner Bond seconded the motion and it passed with 3 ayes.

B. PAUL A. DIXON, JR.

Mr. Dixon is appealing the decision of the TABC staff to deny his application for a server permit. TABC staff denied Mr. Dixon's application based on an April, 2008, felony conviction. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a felony within four years of the date of the application.

Discussion/Action Taken:

Paul Dixon and Jerry Maynard, II were present at the meeting. Mr. Maynard stated that in June 2002, Paul Dixon committed a crime of theft in Tennessee and then moved to California. During the period of from 2002 to October, 2007, Mr. Dixon was employed in California and did not commit any other crimes. However, a warrant had been issued for his arrest in Tennessee. Following an order of extradition in 2007, Mr. Dixon was arrested, and returned to Tennessee. In April, 2008, he was convicted; plead guilty to theft and released the same day. Because of these convictions, his application for a server permit card was denied.

Chairman Jones stated that the law requires the denial of the server permit application, and does not give the Commission any discretionary exceptions to the cases. Commissioner Mathews stated that he did not agree with the action that the Commission has to take, but there is no other alternative. Commissioner Bond stated that she would like to salute Mr. Dixon for the fine way he has conducted himself since this incident.

Commissioner Mathews made a motion to uphold the denial of the application for the server permit. Commissioner Bond seconded the motion and it was approved with 3 ayes.

SERVER PERMITS REVOCATIONS:

A. DOUG PENDERGRASS:

The TABC issued a server permit to Mr. Pendergrass on February 19, 2004, based on an application he submitted. On the application, Mr. Pendergrass failed to disclose a 2002 conviction for the sale of a schedule 1 controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a crime relating to the sale of a schedule 1 controlled substance within eight years. Mr. Pendergrass's permit should be revoked because he provided the Commission with false information and obtained a server permit under false pretenses.

Discussion/Action Taken:

Director Elks requested that the application be withdrawn as the staff has not been able to find Doug Pendergrass and have not been able to get service on this matter. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it was approved with 3 ayes.

B. THOMAS JONATHAN JACKSON

The TABC issued a server permit to Mr. Jackson on February 28, 2005, based on an application he submitted. On the application, Mr. Jackson failed to disclose at least ten convictions. None of the convictions, if disclosed, would have prevented Mr. Jackson from obtaining a server permit. The request for revocation is based on his failure to provide truthful information to the TABC in a document that he signed under oath.

Discussion/Action Taken:

Director Elks stated that Thomas Jackson stated that he did not wish to pursue his application for a server permit card. Director Elks stated that although his server permit card was still valid for two more years, Mr. Jackson had the opportunity to be present for this meeting. Therefore, she requested permission to proceed with the matter and request that Mr. Jackson's server permit be revoked. Commissioner Mathews made a motion for the revocation of the server permit. Commissioner Bond seconded the motion and it was approved with 3 ayes.

5. ADMINISTRATIVE CITATIONS

A. JESSICA MARIE KLAUS (Continued from June and August, 2008 meeting)

On May 16, 2008, TABC Agent William Gammel observed the Respondent sell an alcoholic beverage to the eighteen year-old confidential operative at the restaurant doing business as On the Border, in Memphis, Tennessee. The Respondent checked the minor's identification, but still sold the alcoholic beverage to the minor. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Jessica Marie Klaus has paid the administrative citation; therefore, no action is necessary.

B. WILLIAM MOL (Con't from August, 2008 meeting)

On July 16, 2008, TABC Agent Nina Williamson observed the Respondent sell an alcoholic beverage to the eighteen year-old confidential operative at the restaurant doing business as The Wine Cellar, in Memphis, Tennessee. The Respondent did not check the minor's identification, but sold the alcoholic beverage to the minor. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that William Mol stated that he wishes to pay the administrative citation in installments and requested that the matter be continued to the October Commission meeting to allow time for payments. Commissioner Mathews made a motion to defer to the October Commission

meeting. Commissioner Bond seconded the motion and it was approved with 3 ayes.

6. BUDGET -

7. CONSENT ORDERS

8. PENDING MATTERS LIST

9. MISCELLANEOUS: Attorney General's Opinion Related to Family Owned Stores

Discussion:

(A) Director Elks stated that in August, 2008, the staff submitted a letter to the Attorney General's Office requesting an Opinion related to family owned retail stores.

Specifically, T.C.A. §57-3-406(a) prohibits an individual from having a direct or indirect interest in more than one retail store. The request from the TABC surrounded the question whether family members and/or husband and wife, with each owning a retail store, violate the above-referenced statute.

Director Elks stated that the Attorney General's Office opined that the TABC has the authority to determine whether a direct or indirect interest exists, and such should be determined on a case by case basis depending on the facts and circumstances of each application. Further, that the Commission has the authority to revoke such licenses if a connection, either direct or indirectly, is found.

Commissioner Mathews made a motion to lift the moratorium to receive applications when a related family member of an applicant currently owns a retail store. Commissioner Bond seconded the motion and it passed with 3 ayes.

(B) Director Elks stated that the Comptrollers Office will be conducting a performance audit, aka Sunset Audit, on the agency beginning on Friday, September 19, 2008. Director Elks stated that the last Performance Audit was conducted in 1998. Director Elks stated that in the 1998 audit several findings existed: food audits; the renewals of licenses with taxes were outstanding; and the computer information was not stored in an off-site location for security purposes.

10. DATE OF NEXT MEETING – Wednesday, October 15 and Wednesday, November 19, 2008 at 1:30 p.m.

John A. Jones

Shari Danielle Elks
Executive Director